

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

Troy Thompson,

NO. C 04-03722 JW

Petitioner,

CERTIFICATE OF APPEALABILITY

v.

David Runnells, Warden

Respondent.

Petitioner filed a writ of habeas corpus under 28 U.S.C. § 2254 challenging his conviction for residential burglary, receiving stolen property, and possession of methamphetamine for sale.

Petitioner claimed the following: (1) he was denied his rights under the United States Constitution to due process and equal protection of the law, a jury trial, a public trial, and the assistance of counsel, as well as his rights under state law, by the court's impaneling of an anonymous jury without any evidence or finding of necessity; (2) he was denied effective assistance of counsel if his counsel agreed to an anonymous jury process; (3) he was denied his right under the due process and equal protection clauses of the United States Constitution to an adequate record on appeal and to a fair appeal because he was deprived of the names and addresses of the jurors; (4) he was denied his right to effective assistance of counsel when counsel failed to move to suppress certain evidence seized during a search of his car; (5) he was denied his right to effective assistance of counsel when counsel failed to move to suppress photographs printed from film found in his car; and (6) he was denied his right to effective assistance of counsel when his counsel failed to oppose consolidation of informations. On September 6, 2005, the Court denied the petition for a writ of habeas corpus and

1 denied the motion for an evidentiary hearing. On September 29, 2005, Petitioner filed a notice of
2 appeal, and thereafter filed an application for a certificate of appealability on all six issues raised in
3 the writ of habeas corpus.

4 Pursuant to 28 U.S.C. § 2253, an appeal may not be taken unless a judge issues a certificate of
5 appealability. Based upon all papers filed to date, the Court certifies claims 1, 2 and 3 for appeal.
6 These three claims present questions of “some substance,” that are “debatable among jurists of
7 reason.” Barefoot v. Estelle, 463 U.S. 880, 893 fn. 4 (1983). The Court declines to certify claims 4,
8 5 and 6 for appeal because these claims lack any merit.

9 Dated: October 6, 2005

04cv3722coa

/s/James Ware

JAMES WARE

United States District Judge

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

2 Dane R. Gillette dane.gillette@doj.ca.gov

3 Peggy S. Ruffra peggy.ruffra@doj.ca.gov

4 Richard Such jsuch@comcast.net

5 **Dated: October 7, 2005**

Richard W. Wieking, Clerk

6
7 **By: /s/JW Chambers**

Ronald L. Davis

Courtroom Deputy

United States District Court

For the Northern District of California

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